



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin, Secretary of the Commonwealth

REGULATION FILING AND PUBLICATION

1. Regulation Chapter, Number & Heading: **526 CMR**

2. Name of Agency: **RECREATIONAL TRAMWAY BOARD**

3. This document is reprinted from the Code of Massachusetts Regulations and contains the following:

526 CMR	1.00 - 9.00	RESERVED
	10.00	RECREATIONAL TRAMWAYS

Under the Provisions of Massachusetts General Laws, Chapter 30A, § 6, and Chapter 233, § 75,
this document may be used as evidence of the original documents on file with the Secretary of the Commonwealth

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A true copy attest:

William Francis Galvin

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

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526 CMR: RECREATIONAL TRAMWAY BOARD

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526 CMR 10.00: RECREATIONAL TRAMWAYS

Section

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10.01: General Provisions

(1) Scope.

- (a) 526 CMR 10.00 *et seq.* is promulgated by the Commonwealth of Massachusetts Recreational Tramway Board pursuant to authority granted by M.G.L. c. 143, § 71J.
- (b) The purpose of 526 CMR 10.00 is to provide standards for the construction, modification, inspection, operation, maintenance and use of Tramways; for the certification of inspectors thereof, and for the adoption and maintenance of a system of signs to be used by Operators, in order to ensure public safety.
- (c) 526 CMR 10.00 shall apply to tramways as defined by 526 CMR 10.02.
- (d) All tramways in the Commonwealth are subject to 526 CMR 10.00.

(2) Definitions. The following words and terms, when used in 526 CMR 10.00, shall have the following meanings unless the context clearly indicates otherwise or the term is redefined for a specific section or purpose.

ANSI. American National Standard Institute Safety Requirements for Passenger Ropeways, Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors, published most recently as ANSI B77.1-1999.

Attendant. A person who is 16 years of age or older who works under the direction of the Operator and is responsible for loading riders onto tramways and unloading riders from tramways.

Board. The Recreational Tramway Board.

Certified Inspector. A person who has been approved and certified by the Board on an annual basis to inspect tramways pursuant to M.G.L. c. 143, § 71J and 526 CMR 10.00.

Daily Preoperational Inspection Log. A log which is completed by the Operator each day prior to the opening of the Tramway to the public and signed by the Maintenance Mechanic prior to the close of each day of operation. The Log details all daily inspection requirements set forth in ANSI and in the Manufacturer's Manual and all stoppages over 30 minutes during regular operation.

Department. The Department of Public Safety.

Dynamic Testing Log. A log completed by a Maintenance Mechanic, which details all dynamic testing performed on Tramways.

Employee Training Documentation. Documentation maintained by the Ski Area Operator that details specific training received by Tramway Operators.

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License. A certificate issued by the Board pursuant to M.G.L. c. 143, §71K to a Ski Area Operator after the Ski Area Operator's License Application has been submitted to and approved by the Board.

License Application. A standard form of application, issued by the Board, for a License to operate a Ski Area.

Load Zone. The area from the "wait here" sign, to a point where the vertical clearance of the lift line is greater than eight feet, measured from the bottom of the chair seat of an open carrier to the terrain or snow surface.

Maintenance Mechanic. A person who is trained in the maintenance, Repair, and upkeep of tramways and its components.

Maintenance Repair Log. A log completed by a Maintenance Mechanic, which details all work performed on the Tramway including reports of components replaced or repaired.

Major Modification. An alteration of the current design of the Tramway resulting in a change in:

- (a) The design speed of the system;
- (b) The rated capacity by changing the number of carriers, spacing of carriers, or load capacity of carriers;
- (c) The path of the rope;
- (d) The type of brakes and/or backstop devices or components thereof;
- (e) The structural arrangements;
- (f) Power or type of prime mover or auxiliary engine; or,
- (g) Control system logic.

Manufacturer. A person who has responsibility for the manufacture of any Tramway to be installed or sold for use in the Commonwealth.

Manufacturer's Bulletins. Documents provided by the Manufacturer to Ski Area Operators regarding alerts and maintenance modifications after a Tramway has been manufactured.

Manufacturer's Manual. A document provided by the Manufacturer that details the operational requirements, maintenance requirements and procedures of the Tramway.

Manufacturer's Specifications. Specifications set forth in the Manufacturer's Manual.

Mechanical Malfunction. Any breakdown that constitutes a failure of a load bearing element, mechanical or electrical failure of a drive or control system component or failure of a restraint system which compromises Tramway safety.

Minor Injury/Illness. Injuries and illnesses which may or may not require emergency first aid or significant treatment, or both, but cannot be otherwise classified as a Serious Injury or illness. This category shall include incidents where treatment is limited to such things as the dispensing of over-the-counter medication or plastic adhesive strips, cleansing, rest, and other similar duties or assistance.

Minor Modification. Any change that is not a Major Modification and does not alter the structural or operational characteristics of the Tramway or change its performance from that specified in the Manufacturer's design criteria.

Non-destructive Testing (NDT) Report. A report detailing testing of critical mechanical and structural components of a Tramway, including grips, hangers, chairs and cabins, against accepted criteria established by the designer or Manufacturer; or if the designer or Manufacturer is no longer in business and the original criteria are no longer applicable, by a Registered Professional Engineer.

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Operating Manual. The document that contains the required procedures and forms for the safe operation of a Tramway.

Operator. A person who is 18 years of age or older who is responsible for the operation of a Tramway.

Prior to Operation (PTO) Affidavit. An Affidavit executed by a Ski Area Operator, on a form provided by the Board, certifying that all items of non-compliance documented in the Certified Inspector's report have been corrected and that the Tramway is in full compliance with 526 CMR 10.00

Records. Documents that a Ski Area Operator shall be in possession of, and must make available to Certified Inspectors and State Inspectors upon request. Such documents shall include:

- (a) Manufacturer's Manual;
- (b) Manufacturer's Bulletins;
- (c) Daily Preoperational Inspection Log;
- (d) Maintenance Repair Log;
- (e) Dynamic Testing Schedule;
- (f) Non-destructive Testing Reports;
- (g) Wire Rope Inspection Reports;
- (h) Evacuation Plans and Log;
- (i) Tramway Incident Reports; and
- (j) Employee Training Documentation.

Registered Professional Engineer. A person who is registered in Massachusetts as a professional engineer.

Repair. The restoration of a Tramway component with like components or materials that meet or exceed current design specifications for the Tramway.

Reportable Tramway Incidents.

- (a) Any incident involving a Tramway in which a person sustains an Injury.
- (b) Any unintentional deropement of a Tramway (except for surface lifts, tows and conveyors).
- (c) Any unplanned evacuation of a Tramway (except for surface lifts, tows and conveyors) other than by prime mover or auxiliary power unit.
- (d) Any fire involving Tramway equipment or structures.
- (e) Failure of any electrical or mechanical component which results in the loss of control of the Tramway, including:
 1. Tramway will not slow down or stop when given the command to do so;
 2. Tramway accelerates faster than normal design acceleration;
 3. Tramway reverses direction unintentionally, self starts or self accelerates without the command to do so.

Rider. A person riding on or utilizing a Tramway.

RTB (Recreational Tramway Board) Number. The unique identifying number assigned to each Tramway by the Board.

Safety Equipment. Includes fire extinguishers, emergency main electrical disconnect, lock-out point and nearest telephone for routine or emergency assistance.

Serious Injury. A personal injury that results in death, dismemberment, significant disfigurement, permanent loss of the use of a body organ, member, function, or system, a compound fracture, or other significant injury that requires immediate admission and overnight hospitalization and observation by a licensed physician.

10.01: continued

Ski Area. All of the slopes and trails under the control of a Ski Area Operator, including cross-country Ski Areas, slopes and trails, and any Tramway in operation on any such slopes or trails administered or operated as a single enterprise but shall not include base lodges, motor vehicle parking lots and other portions of ski areas used by skiers when not actually engaged in the sport of skiing.

Ski Area Operator. A person who is licensed pursuant to M.G.L. c. 143, § 71K to own, operate or manage a Ski Area.

Ski Slope or Trail. An area designed by the person or organization having operational responsibility for the Ski Area as herein defined, including a cross-country Ski Area, for use by the public in furtherance of the sport of skiing, meaning such designation as is set forth on a trail map or as otherwise designated by a sign indicating to the skiing public the intent that the area be used by skiers for purpose of participating in the sport.

State Inspector. An inspector who is an employee of the Department.

Tramway. A device used to transport riders uphill on skis, or in cars on tracks, or suspended in the air, by the use of steel cables, chains or belts or by ropes, and usually supported by trestles or towers with one or more spans. The term Tramway shall include the following:

- (a) Multi-car aerial Tramway, a device used to transport riders in several open or enclosed cars attached to, and suspended from, a moving wire rope, or attached to a moving wire rope and supported on a standing wire rope, or similar devices.
- (b) Chair lift, a type of transportation on which riders are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices.
- (c) J bar, T bar or platter pull, so-called, and similar types of devices, means of transportation which pull riders on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans.
- (d) Rope tow, a type of transportation which pulls riders on skis as the riders grasp the rope manually, or similar devices.
- (e) Moveable conveyor belt, a device which transports riders, usually on skis, as the riders stand on top of it.

Tramway Incident Report. A document which details all Reportable Tramway Incidents.

Unload Zone. The area approaching the unload area where the vertical clearance is less than eight feet, measured from the bottom of an open carrier to the terrain or snow surface.

(3) Standard Adopted. ANSI B77.1-1999 is the standard adopted and incorporated by reference as part of 526 CMR. In the event that any provision of this standard conflicts with the provisions of 526 CMR, 526 CMR shall govern. This standard is on file with the Secretary of State.

10.02: General Administrative Provisions

(1) Fees. A fee shall be paid by the applicant for each Tramway listed in the License Application according to the fee schedule as set forth by the Commissioner of Administration and Finance in 801 CMR 4.02.

(2) Insurance.

- (a) The Ski Area Operator shall furnish proof of financial responsibility to satisfy claims for damages on account of any physical injuries suffered by any Rider by reason of any act or omission on the part of the Ski Area Operator in the minimum amount of \$1,000,000.
- (b) Certified Inspectors shall also furnish proof of liability insurance to satisfy claims for damages on account of any physical injuries or property damage suffered by any Rider by reason of any act or omission on the part of the Certified Inspector, his agents or employees in the minimum amount of \$100,000.00 in combined single limit bodily injury and property damage.

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10.03: Certifications

(1) Certification. All certifications granted by the Board shall be valid for one year subsequent to their issuance unless otherwise suspended or revoked in accordance with 526 CMR 10.00. Fees for all certifications are to be paid as set forth by the Board.

(2) Certification of Certified Inspectors. Each applicant shall be examined by the Board on the construction, maintenance and Repair of Tramways, their appurtenances and the applicant's training, experience, and knowledge of the laws, rules and regulations applicable to Tramways. Upon successful completion of examination, the Board shall certify the applicant as a Certified Inspector.

(3) Certification of Wire Rope Inspectors. The Board shall certify wire rope inspectors who demonstrate professional competence, education and experience as determined by the Board.

(4) Certification of Wire Rope Splicers. The Board shall certify wire rope splicers upon demonstration of professional competence, education and experience as determined by the Board.

(5) Certification of NDT Examiners. The Board shall certify Non-destructive Testing examiners who demonstrate professional competence, education and experience as determined by the Board.

(6) Suspension and Revocation of Certification. A certification may be suspended or revoked upon a finding by the Board or its designee that a Certified Inspector, Wire Rope Certified Inspector or Certified Wire Rope Splicer is incompetent to perform the duties Attendant to the certification issued by the Board. If a certification is suspended or revoked, within 30 days of receipt of the suspension or revocation, the aggrieved party may file an appeal to Superior Court pursuant to M.G.L. c. 30A, § 14 or M.G.L. c. 143, § 71M.

10.04: Issuance of Annual License; Denials; Appeals

(1) License Requirements.

(a) No person shall operate, arrange for, cause to be used, manufacture or sell for use in the Commonwealth, any Tramway that is not in compliance with 526 CMR 10.00.

(b) No Tramway shall be operated without a valid License.

(2) Applications. Commencing with the 2006-2007 Ski Season, the Ski Area Operator shall submit a License Application at least 30 days prior to commencing operations each year on a form supplied by the Board. A License shall be valid for a period of one year or until the expiration, revocation or suspension of the License or insurance certificate, whichever occurs sooner.

(3) Approvals.

(a) Prior to any Tramway being licensed in the Commonwealth, the Ski Area Operator shall provide the following to the Board:

1. Completed License Application;
2. Certified Inspector's report;
3. PTO Affidavit, if applicable;
4. Certificate of insurance demonstrating compliance with 526 CMR 10.02(2);
5. Fee as set forth by the Commissioner of Administration and Finance (801 CMR 4.02);
6. NDT Report;
7. Wire rope inspection report.

(b) Upon approval, the Board shall issue a License to the Ski Area Operator for the Tramways identified in the License Application.

(4) Inspector and Police Admission to Ski Areas. As a condition of the License, Ski Area Operators shall grant unlimited access to Ski Areas and Tramways licensed pursuant to 526 CMR 10.00 to any law enforcement officials, fire officials or State Inspectors acting in the performance of their duties.

10.04: continued

- (5) Denials. The Board may refuse to issue a License to an applicant for the following reasons:
 - (a) Submission of an incomplete License Application;
 - (b) Failure to submit required fees;
 - (c) Submission of false, invalid, incorrect or fraudulent information;
 - (d) If at the time of application, the applicant is under investigation by the Board or other law enforcement agency in connection with the operation of a Tramway;
 - (e) If the Board finds that the applicant does not possess the integrity and general fitness to operate Tramways in a safe manner and in the public interest consistent with the purposes of 526 CMR 10.00.
 - (f) Failure to submit required insurance certificate in accordance with 526 CMR 10.02(2).
- (6) Appeals.
 - (a) If the Board refuses to issue a License, it shall notify the applicant in writing, setting forth the reasons for denial. Except where the denial is for failure to pay fees in accordance with 526 CMR 10.02(1) or submit required insurance certificate in accordance with 526 CMR 10.02(2), within 21 days of receipt of the denial, the applicant may make written demand for a hearing before the Board, or its designee, to determine the reasonableness of the Board's action. The hearing shall be held promptly and in accordance with M.G.L. c. 30A and 801 CMR 10.02. If the denial is for failure to pay fees or submit required insurance certificate, the applicant is not entitled to a hearing to determine the reasonableness of the denial, but may resubmit the License Application with the requisite fees and insurance certificate.
 - (b) If, after a hearing, the Board or its designee denies the issuance of the License, it shall notify the applicant in writing. Such notice shall be sent by certified and first class mail, no later than 30 days after the hearing is concluded, and shall contain the reasons for denial. Within 30 days after receipt of the notice, the applicant may appeal to Superior Court pursuant to M.G.L. c. 30A, § 14 or M.G.L. c. 143, § 71M.

10.05: Inspections

- (1) Annual Inspection.
 - (a) All Tramways shall be inspected by a Certified Inspector prior to being allowed to open to the public.
 - (b) Prior to the inspection, the Ski Area Operator shall ensure that the Tramway is ready for the inspection and have Operators available to operate the Tramway during the inspection.
 - (c) The Certified Inspector shall ensure that the Manufacturer's Specifications and recommendations as they pertain to parts to be disassembled, inspected, and replaced are followed.
 - (d) The Certified Inspector shall review maintenance Records for the Tramway from the previous year and ensure that all pertinent safety bulletins and Manufacturer specified Repairs/modifications/upkeep requirements have been implemented.
- (2) Certified Inspector Responsibilities/Duties. The Certified Inspector shall:
 - (a) Conduct an in-depth physical/visual inspection that may require disassembly of the Tramway and its components, and may also require the services of a person certified or trained in a specialty. The inspection shall include all steps required by ANSI and those set forth by the Manufacturer.
 - (b) Review all Records concerning Tramway Repairs, all modifications and standard upkeep for the previous year.
 - (c) Review Employee Training Documentation for the current year.
 - (d) Review any specialist's reports not already cited in the Certified Inspector's report.
 - (f) Conduct operational tests of all Tramways.
 - (g) Review the evacuation plans for all Tramways.
- (3) Certified Inspector's Report. The Certified Inspectors Report shall:
 - (a) Identify all Major Modifications performed on the Tramway for the past year;
 - (b) Confirm the review of the following Records:

10.05: continued

1. Specialty Inspection Reports;
2. Manufacturer's Bulletins;
3. Maintenance Repair Log;
4. Employee Training Documentation; and
5. Evacuation Plan and Log;
6. Non-destructive Testing Report;
7. Dynamic Testing Schedule and Report; and
8. Wire Rope Inspection Report.

- (c) Identify items found to be out of compliance with 526 CMR 10.00, and what action, if any, was performed to bring the Tramway into compliance;
- (d) Document any other issues of concern.
- (e) Include the signature of the Certified Inspector; and
- (f) State the Certified Inspector's name and certification number, printed legibly.

Upon completion of the inspection, the Certified Inspector shall submit an inspection report to both the Ski Area Operator and the Board. Those issues affecting the safety and integrity of the Tramway identified by the Certified Inspector shall be immediately addressed by the Ski Area Operator.

(4) Correction of Non-compliant Items.

- (a) Corrective Actions. If the Certified Inspector's report identifies items found to be out of compliance with 526 CMR 10.00, then prior to the issuance of a License by the Board, the Ski Area Operator shall take all necessary actions to correct those items and bring the Tramway into full compliance with 526 CMR 10.00 prior to commencing operations. The Ski Area Operator must have all necessary Repairs and maintenance completed as recommended in the Certified Inspectors report and in accordance with the Manufacturer's Manual and 526 CMR 10.00 prior to commencing operation of the Tramway. The Ski Area Operator shall have all Repairs and maintenance recorded in the Maintenance Repair Log in accordance with 526 CMR 10.00.
- (b) Prior to Operation (PTO) Affidavit. Prior to the issuance of a License, the Ski Area Operator must submit verification that the Tramway is in full compliance with 526 CMR 10.00 by filing a PTO Affidavit with the Board. The PTO Affidavit shall:
 1. identify all items that remained out of compliance when the initial inspection report was completed, and
 2. identify what actions were taken to correct these items and
 3. attest to the fact that the Ski Area Operator has fully inspected the Tramway in accordance with the requirements of 526 CMR 10.00 and the Manufacturer's Manual and that the Tramway is in full compliance with 526 CMR 10.00.

(5) Daily Preoperational Inspections by the Operator.

- (a) Each day, prior to opening the Tramway to the public, the Tramway Operator shall perform a preoperational inspection, which shall include physical inspection of the Tramway and all daily inspection requirements and operating tasks set forth in the Manufacturer's Manual and 526 CMR 10.00. In accordance with 526 CMR 10.00, the Ski Area Owner shall correct any items of non-compliance documented during a preoperational inspection. The Operator shall not open the Tramway to the public until the Tramway is in full compliance with 526 CMR 10.00 and safe for operation.
- (b) Daily preoperational inspections shall be documented by the Operator in the Daily Preoperational Inspection Log which shall be kept on location with the Tramway.
- (c) All Tramway stoppages over 30 minutes occurring during daily operations shall be duly noted in the Daily Preoperational Inspection Log. This log shall contain the reason for the stoppage, duration of time the Tramway is shut down and any known mechanical, structural or other problem.

(6) Compliance Inspections.

- (a) All Tramways may be inspected by a State Inspector at any time deemed necessary by the Department to ensure that they are in compliance with 526 CMR 10.00.

10.05: continued

- (b) The State Inspector shall document any issues of concern and immediately notify the Ski Area Operator, or his representative, of such concerns. The Ski Area Operator shall immediately address issues directly affecting the safety and integrity of the Tramway, and correct all items of Non-compliance.
- (c) Whenever the Department or its designee deems a condition in Tramway construction, operation or maintenance to be a threat to public safety, the Department may order the Ski Area Operator to immediately suspend operation of the Tramway until such time as the condition has been remedied. The Department reserves the right to exercise the provisions of 526 CMR 10.05(6)(c), notwithstanding any other provisions to the contrary.
- (d) The Board shall convene as soon as possible following an immediate shutdown by the Department.
- (e) Unless otherwise authorized by the Board, the Tramway shall remain closed until all necessary repairs have been completed and the Tramway is in full compliance with 526 CMR 10.00.
- (f) Operation of the Tramway shall not be resumed until the Tramway has been re-inspected by the Department, which shall report its findings to the Board, and found to be safe and has been approved for operation by the Board.

10.06: Non-destructive Testing (NDT)

(1) NDT Plan.

- (a) A Ski Area Owner shall obtain all required non-destructive testing plans from the Manufacturer. The plan shall include the Non-destructive testing requirements and schedules. The NDT plan shall include provisions for the Non-destructive testing of all critical structural and mechanical components including grips, clips, hangers, chairs, cabin and shall comply with ANSI.
- (b) The Non-destructive testing plan shall include:
 - 1. The part to be tested, including photographs or illustrations if available;
 - 2. The percentage of parts of each type to be tested;
 - 3. How often the parts are to be tested; and
 - 4. NDT specified by the Manufacturer.
- (c) Where there is no Manufacturer to provide the required documents, the Ski Area Owner shall obtain a non-destructive testing plan prepared by a Registered Professional Engineer.

(2) NDT Testing. The Ski Area Owner shall have Non-destructive Testing performed in accordance with the NDT plan.

(3) NDT Report.

- (a) All NDT testing shall be performed by a certified NDT examiner.
- (b) The certified NDT examiner performing the testing shall document their findings in a NDT Report, which shall be maintained by the Ski Area Owner for the life of the Tramway.
- (c) The NDT Report of the Non-destructive tests shall include the following:
 - 1. The name and business address of the Ski Area Owner;
 - 2. The date and location where the test was performed;
 - 3. The name and RTB Number of the Tramway;
 - 4. The Manufacturer's name
 - 5. The name and business address of the firm that conducted the test;
 - 6. The type of Non-destructive test performed and a description of the test equipment;
 - 7. The results and the criteria used for acceptance or rejection of the part(s);
 - 8. The part name, part number and quantity of each part that was inspected;
 - 9. A drawing or photograph of sufficient clarity showing the part tested, if available;
 - 10. A detailed sketch of the part repaired, the Manufacturer's or Registered Professional Engineer's recommendation for Repair, Repair method used and the results of the retest;
 - 11. Signature of the certified NDT Examiner performing the test and interpreting the test result.
- (d) The Ski Area Owner shall submit a NDT report to the Board with the License Application prior to the issuance of an annual License to operate the Tramway.

10.07: Records

The Ski Area Operator shall maintain the following records and make them available to Certified Inspectors and State Inspectors upon request:

- (1) Manufacturer Manuals and Bulletins.
 - (a) All manuals and Manufacturers bulletins shall be printed or prepared in English.
 - (b) The Ski Area Operator shall maintain copies of the Manufacturer's Manual, Manufacturer's Bulletins and Operating Manual for each Tramway for which a License is being sought on location with and readily available to Operators and Attendants. In the event that the Manufacturer's Manual is no longer available, then prior to operation of the Tramway, the Ski Area Operator shall obtain a written operating procedure prepared by a Registered Professional Engineer. The Ski Area Operator shall maintain copies of the written operating procedure and make them readily available to Operators, Attendants, Certified Inspectors and State Inspectors upon request.
 - (c) The Manufacturer may submit these documents on behalf of all applicants who own or operate a particular Tramway.
- (2) Maintenance Repair Log. The Owner shall keep a Maintenance Repair Log in accordance with 526 CMR 10.00 for the life of each Tramway.
- (3) Daily Preoperational Inspection Log. The Ski Area Operator shall keep Daily Preoperational Inspection Logs in accordance with 526 CMR 10.05(5) for each Tramway, and keep those logs for a period of one year from the date of any inspection.
- (4) Employee Training Documentation. The Ski Area Operator shall keep Employee Training Documentation in accordance with 526 CMR 10.09(2)(e) for each Operator and Attendant for a period of one year following termination of employment.

10.08: Rider Responsibility

- (1) There are inherent risks in riding Tramways. Riders accept the risks inherent in such participation of which the ordinary prudent person is or should be aware. No Rider shall embark or disembark upon a Tramway except at a designated locations and during designated hours of operation, throw or expel any object from any Tramway while riding thereon, act in any manner while riding on a Tramway that may interfere with its proper or safe operation, engage in any type of conduct which may injure any person, or place any object in the uphill ski track which may cause another to fall while traveling uphill on a Tramway, or cross the uphill track of a Tramway except at designated locations.
- (2) A Rider who boards a Tramway shall be presumed to sufficient abilities to use the same and shall follow any written or oral instruction given regarding its use and no Rider shall embark on a Tramway without authority of the Operator.
- (3) Riders shall:
 - (a) exercise good judgment and act in a responsible manner while using any Tramway.
 - (b) obey all instructional and warning signs posted on the Tramway.
 - (c) not place themselves on any Tramway when under the influence of drugs and/or alcohol.
 - (d) use all Tramway safety devices provided to ensure their safety. No person shall bypass, remove or make any safety device inoperable.

10.09: Ski Area Operator Responsibility

- (1) Operation and Maintenance.
 - (a) The Ski Area Operator shall not install, operate or allow to be operated any Tramway that does not have a valid License pursuant to 526 CMR 10.00.
 - (b) The Ski Area Operator shall maintain Tramways in conformance with the Manufacturer's Specifications and in accordance with 526 CMR 10.00.

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(c) The Ski Area Operator shall complete regular Repair and maintenance work on Tramways as required by the Manufacturer's Manual, Manufacturer's Bulletins, and 526 CMR 10.00, and shall have all maintenance and Repair work including replacement of any parts or components of the Tramway documented by a Maintenance Mechanic in the Maintenance Repair Log.

(d) The Ski Area Operator shall ensure that the number of Operators and Attendants necessary to safely operate the Tramway, as specified in the Manufacturer's Manual and the Operating Manual are on site and in the correct location(s).

(2) Operator and Attendant Requirements and Training.

(a) Operators shall be at least 18 years of age.

(b) Attendants shall be at least 16 years of age.

(c) Operator and Attendant duties shall include:

1. maintaining orderly passenger traffic conditions within his/her area of jurisdiction;
2. advising and assisting riders as required;
3. loading riders on and unloading riders from Tramways while maintaining surveillance of his/her area of jurisdiction.
4. advising the supervisor of all conditions and occurrences that may adversely effect the safety of operation.

(d) In addition to the duties listed in 526 CMR 10.09(2)(c), Operators duties shall include

1. assuming responsible charge of a Tramway;
2. assigning and supervising all Attendants at the Tramway;
3. maintaining the Pre-Operational Log as required by 526 CMR.

(e) Training. The Ski Area Operator shall ensure that all Operators and Attendants are trained to operate the Tramway and perform their duties based on the Manufacturer's Requirements, Operational Manual and Manufacturer Bulletins, safety alerts or other notices related to operational requirements. The Ski Area Operator shall ensure that:

1. All Operators and Attendants are trained in the operational and emergency procedures pertaining to the Operator or Attendant's assignment. This training shall include instruction for observation of any potentially dangerous operational or mechanical developments within the Operator or Attendant's view.
2. Operators and Attendants shall be properly trained before being assigned the duties of operating or attending to a Tramway. The Ski Area Operator shall maintain Employee Training Documentation signed by each Operator and Attendant to verify the completion of training.
3. Operators and Attendants shall have access to a copy of the Operating Manual and shall have the ability to read and understand it so as to safely operate and communicate safe riding policies to Riders.
4. Operators and Attendants shall be trained to be aware of the motions and sounds attributed to the normal operation of the Tramway. Operators and Attendants shall be familiar with how the Tramway looks when it is functioning normally, and be alert to any unusual conditions. If there are any changes in the normal operating condition, operation shall cease and the Ski Area Operator shall be notified immediately. The Ski Area Operator will decide the appropriate action to be taken.
5. Operators and Attendants shall know the whereabouts of all Safety Equipment.
6. An amended list of Operators and Attendants trained subsequent to the License Application shall be maintained by the Ski Area Operator.

(f) Restrictions. No Operator or Attendant while under the influence of drugs and/or alcohol shall operate any Tramway, nor load or unload a Rider.

(3) Proximity to Overhead High Voltage Lines. The Ski Area Operator shall ensure that Tramways are located so that they do not come in close proximity to overhead high voltage lines, which could result in electrocution or Tramway damage.

(4) Protection Against Moving Parts or Other Hazards and Clearance Envelopes.

(a) The Ski Area Operator shall be aware of any construction equipment or vehicles operating in the immediate vicinity. The Ski Area Operator shall remove any equipment encroaching on the normal range of motion of the Tramway to a safe distance.

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- (b) The Ski Area Operator shall not allow a Tramway to be used or operated while any person is so located as to be endangered by it. The Ski Area Operator shall fence, barricade, or otherwise guard the Tramway against public intrusion in areas where persons may be endangered.
 - (c) Where a public access, queuing, loading or unloading area is under the Tramway, the Ski Area Operator shall provide overhead protection from objects that might reasonably be expected to fall from a ride (for example, items carried or worn by Riders) unless otherwise allowed by the Board.
 - (d) The Ski Area Operator shall enclose, barricade, or otherwise effectively guard machinery used in or with a Tramway against contact. The Ski Area Operator shall replace guards removed for maintenance purposes before normal operation is resumed.
 - (e) The Ski Area Operator shall ensure that each Tramway is rendered inoperable when not attended or in use.
 - (f) The Ski Area Operator shall maintain clearance envelopes per Manufacturer's Specifications at all times during the operation of a Tramway.
 - (g) The Ski Area Operator shall secure decorations including but not limited to flags, or lighting fixtures in a fashion where they will not create a hazard to Riders or members of the public in the event of high winds or normal vibration caused by moving equipment and shall place such decorations far enough from the Tramway so as not to encroach on the clearance envelope.
- (5) Wind and Storm Hazards.
- (a) The Ski Area Operator shall ensure that Tramway Operators are aware of dangerous weather conditions including, but not limited to, wind, rain, lightning and any approaching storm.
 - (b) The Ski Area Operator shall not allow a Tramway which is exposed to wind or storm to be operated under dangerous weather conditions except to unload Riders.
 - (c) The Ski Area Operator shall follow Manufacturer wind and weather related restrictions during periods of wind or storm. The restrictions shall be addressed in the Operator's Manual, which shall be on site at all times.
- (6) Lighting.
- (a) The Ski Area Operator shall ensure that when Tramways, including access and egress, are in operation or occupied, shall have illumination by natural or artificial means sufficient to guard against injuries to the Riders.
 - (b) The Ski Area Operator shall provide proper guarding to all florescent lighting to prevent shattering of glass on Riders.
- (7) Transfer of Ownership. Upon the transfer of ownership of any Tramway, the Owner of the Tramway being transferred shall notify the Board in writing of the transfer, and shall transfer all Records pertaining to that Tramway to the new owner. The new owner shall obtain a new License prior to operating the Tramway.

10.10: Reportable Tramway Incidents: Immediate Shutdown

- (1) All Reportable Tramway Incidents shall be reported to the Board. If a Reportable Tramway Incident involves a Serious Injury, it shall be reported to the Board and the State Police immediately. A Tramway Accident Report shall be delivered to the Board for all Reportable Tramway Incidents postmarked within four days of such incident.
- (2) Serious Injury.
 - (a) When a Serious Injury results from a possible malfunction of a Tramway, the Ski Area Operator shall immediately stop operation of the Tramway and notify the Board. No part of the Tramway or the surrounding area shall be removed or disturbed before written permission has been given by the Board or its designee, except to the extent that such action is necessary to avoid further Serious Injury.

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- (b) An investigation of the incident shall precede any authorization to resume public operation of the Tramway. The report of investigation shall include a factual account of the incident, the nature and extent of injuries to persons, damage to the Tramway, any witness statements, any other pertinent details, and recommendations for remedial measures to be taken prior to resuming operation.
- (3) Immediate Shutdown.
- (a) Whenever the Board or its designee deems a condition in Tramway construction, operation or maintenance to be a threat to public safety, it may order the Ski Area Operator to immediately suspend operation of the Tramway until such time as the condition has been remedied. The Board reserves the right to exercise the provisions in 526 CMR 10.10(3) notwithstanding any other provision to the contrary.
- (b) Items which may warrant immediate Tramway shut down by the Board include:
1. Failure of the safety system;
 2. Failure of the limit switch, derailment system or stop switch;
 3. Counterweight striking ground or tension carriage improperly positioned and improper functioning of the hydraulic/pneumatic system;
 4. Improper functioning brakes or back stops;
 5. Non-functioning Tramway communication system;
 6. The occurrence of a Serious Injury due to a defect or malfunction of the Tramway;
 - or
 7. Any other condition, which may affect safe operation of the Tramway.
- (4) Re-inspection Following Immediate Shutdown.
- (a) The Tramway shall remain closed until all necessary repairs have been completed to the satisfaction of the Board.
- (b) Operation of the Tramway shall not be resumed until the Tramway has been re-inspected by a certified inspector and found to be safe for operation by the Board.

10.11: Revocations and Suspensions of Tramway License

- (1) A Ski Area Operator may have his License suspended or revoked after a hearing for:
- (a) Failure to properly maintain Records as required by 526 CMR 10.00;
 - (b) Failure to Repair any Tramway as ordered or noted by a Certified Inspector or State Inspector;
 - (c) Negligence of the owner, Operator or Maintenance Mechanic in connection with the maintenance, Repair or operation of a Tramway;
 - (d) Continuing to operate a Tramway without the Department's authorization when an incident or accident occurs that is required to be reported pursuant to 526 CMR 10.10 or after an immediate shutdown has been ordered pursuant to 526 CMR 10.10;
 - (e) Failure to notify the Board of any incident or accident as required by 526 CMR 10.10;
 - (f) Modifying a Tramway without approval by the Board as required by 526 CMR 10.13;
 - (g) Operating in a manner likely to cause injury;
 - (h) The knowing submission of false, invalid, incorrect or fraudulent information related to the maintenance or design of the Tramway;
 - (i) Failure to maintain the required insurance; and
 - (j) Failure to comply within, the provisions of M.G.L. c. 143, § 71H or 526 CMR 10.00.
- (2) Any Ski Area Operator who has a License suspended or revoked shall not operate the affected Tramway or Tramways until the suspension period is over or such License and/or permit is restored by the Board through the regular application process.
- (3) Notice of Violations: Hearings and Appeals.
- (a) Notice of Violation. The Board shall send written notice of the alleged violation(s) to the Ski Area Operator by certified mail and first class mail.
 - (b) Hearings. All hearings shall be conducted by the Board or its designee in accordance with M.G.L. c. 30A and 801 CMR 10.02.
 - (c) Appeal. Any person aggrieved by a determination of the Board or its designee may appeal to the Superior Court in accordance with M.G.L. c. 30A, § 14.

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10.12: Variance

- (1) Application. If the Ski Area Operator or Manufacturer believes that full compliance with 526 CMR 10.00 is overly burdensome, either may apply to the Board for a variance from 526 CMR 10.00. The burden is on the applicant to demonstrate in writing to the Board that the granting of the variance would not compromise public safety or otherwise undermine the purpose of 526 CMR 10.00. Variance Applications shall be made on a form provided by the Board, shall contain such information as is required by the Board, and shall be signed by the applicant.
- (2) Board Action. Upon receipt of a Variance Application, the Board, or its representative may:
 - (a) Grant the Variance Application with any conditions deemed appropriate;
 - (b) Deny the Variance Application without a hearing.
- (3) Appeals. Any person aggrieved by the Board's decision may file a request for an adjudicatory hearing with the Board within ten days of receipt of the decision. All adjudicatory hearings shall be held in accordance with the provisions of M.G.L. c. 30A and 801 CMR 1.02. Any person aggrieved by a decision made subsequent a hearing may appeal to Superior Court pursuant to M.G.L. c. 30A, § 14.

10.13: Design and Installation

- (1) Major Modification, Relocation, Construction, New Installation.
 - (a) Three weeks prior to construction, Major Modification, installation or relocation of any Tramway, the Ski Area Operator must submit to the Board the following information for approval:
 1. an application for its construction on forms prescribed by the Board.
 2. a profile of the Tramway line approved by a Registered Professional Engineer, showing proximity to power lines, highways, or rivers,
 3. a set of specifications and plans approved by a Registered Professional Engineer, showing all footing details and designed sheave loads.
 - (b) DIGSAFE. When any excavating is to be performed or ground rods are to be used, DIGSAFE shall be called and the DIGSAFE number shall be identified on the local building permit (use of premise permit).
 - (c) Concrete Pouring.
 1. Notice shall be given to the Board at least five business days before concrete is poured for tower and terminal foundations. Any change in an expected date or time of pouring shall be reported to the Board, as soon as it becomes known to a Ski Area Operator.
 2. Two sample cylinders of concrete from each truckload, or from each batch (if on site mixing is done) shall be tested to ascertain that the compression strength of the concrete meets the minimum requirements of the Tramway designer. The Ski Area Operator shall be responsible for having the testing done, and keeping a record of such testing for one year.
- (2) Reapplication for Licensure Subsequent to New Installation or Major Modification.
 - (a) After new installation, Major Modification or relocation of a Tramway, the Ski Area Operator may not open the Tramway to the public until he has submitted an amended License Application on a form provided by the Board and received written authorization from the Board.
 - (b) The amended License Application shall include:
 1. One copy of the original License issued by the Board;
 2. fee;
 3. All supplemental safety bulletins, safety alerts, or notifications issued following the issuance of the original Permit;
 4. An inspection report from a Certified Inspector, which shall contain in addition to the requirements set forth in 526 CMR 10.05(3), the following information:
 - a. Profile of the Tramway line;
 - b. Plans detailing footing construction and sheave load;
 - c. Copy of approved wire rope specifications;
 - d. Certified wire rope test report;
 - e. Load test procedure; and,

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- f. Any other specific requirements of the Board.
- (c) The differences between the information submitted in the original License Application and that provided with the amended License Application shall be clearly shown by the Ski Area Operator.

10.14: Dynamic Testing

- (1) All Tramways shall be dynamically tested every seven years. Of all the Tramways at an area, the oldest Tramway should be tested first followed by the testing of Tramways in chronological order according to the Tramways' Permit dates.
- (2) Ski Areas with multiple Tramways shall schedule the testing of the Tramways so as to reasonably balance the number of dynamic tests conducted at a Ski Area each year of the cycle.
- (3) A Ski Area Operator shall submit a proposed schedule of the years in which each Tramway will be tested to the Board for approval. The Certified Inspector shall determine the priority of the Tramway or Tramways to be inspected at a Ski Area. On an annual basis, a Ski Area Operator shall submit to the Board an updated report indicating the dynamic testing completed during the previous year.
- (4) Each Ski Area Operator shall provide the staff necessary to conduct the test.
- (5) A written procedure for each Tramway shall be prepared by the Manufacturer reflecting the latest modification and shall be available for the test. In the event that the Manufacturer has not provided such a procedure, then a written procedure shall be prepared by a Registered Professional Engineer. The written procedure shall be submitted to the Board with a request for a specific date of inspection.
- (6) For the purposes of 526 CMR 10.14(5), the written procedure shall meet the criteria for dynamic testing as set forth in ANSI and 526 CMR 10.00.
- (7) The dynamic test shall include:
 - (a) Testing for proper functioning of all electrical safety switches where applicable, including:
 - 1. Line tower and lift terminal deropement switches;
 - 2. Manual stop, start and slow switches;
 - 3. Tension system limit switches for mechanical travel and for pressure limits;
 - 4. Collision control switches and systems;
 - 5. Brake monitoring switches;
 - 6. Over-speed devices;
 - 7. Field loss and phase loss detection, as appropriate;
 - 8. Brake trip switches; and,
 - 9. Speed control circuit loss detectors.
 - (b) A suitable load test to verify that the following devices are functioning properly for all loading conditions, such as uphill, downhill and simultaneous uphill and downhill loading:
 - 1. Prime motor system;
 - 2. Auxiliary drive system;
 - 3. Evacuation drive system; and,
 - 4. All braking systems in each mode of design operation.
- (8) The Ski Area Operator shall complete Dynamic Testing in accordance with 526 CMR 10.00 and shall maintain a Dynamic Testing Log for the life of the Tramway and make that Log available to Certified Inspectors and State Inspectors upon request.

REGULATORY AUTHORITY

526 CMR 10.00: M.G.L. c. 143, § 71J